

Senate File 200 - Enrolled

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SENATE FILE 200

AN ACT

PROVIDING FOR THE LIABILITY OF A LANDOWNER OF LAND WHERE
LIVESTOCK ARE KEPT OR AN OWNER OF ADJOINING LAND FOR ERECTING
AND MAINTAINING A FENCE, AND PROVIDING FOR THE ASSESSMENT OF
PROPERTY TAXES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 169C.1, Code 2007, is amended by adding
the following new subsections:

NEW SUBSECTION. 1A. "Fence" means a fence as described in
chapter 359A which is lawful and tight as provided in that
chapter, including but not limited to a partition fence. For
purposes of this chapter, "fence" includes a fence bordering a
public road.

NEW SUBSECTION. 8. "Public road" means a thoroughfare and
its right-of-way, whether reserved by public ownership or
easement, for use by the traveling public.

Sec. 2. NEW SECTION. 169C.6 HABITUAL TRESPASS.

A habitual trespass occurs when livestock trespasses from
the land where the livestock are kept onto the land of a
neighboring landowner or strays from the land where the
livestock are kept onto a public road, and on three or more
separate occasions within the prior twelve-month period the
same or different livestock kept on that land have trespassed
onto the land of the same neighboring landowner or strayed
from the land where the livestock are kept on the same public
road.

1. The local authority upon its own initiative or upon
receipt of a complaint shall determine whether livestock are
trespassing or straying from the land where the livestock are
kept on a public road, and make a record of its findings.

2. a. Once a habitual trespass occurs, a neighboring
landowner may request that the responsible landowner of the
land where the trespassing or stray livestock are kept erect
or maintain a fence on the land. The neighboring landowner
shall make the request to the responsible landowner in
writing. The responsible landowner may compel an adjacent
landowner to contribute to the erection or maintenance of the
fence as provided in chapter 359A.

b. If the responsible landowner does not erect or maintain
a fence within thirty days after receiving the request, the
neighboring landowner may apply to the fence viewers as
provided in chapter 359A as if the matter were a controversy
between the responsible landowner and an adjacent landowner,
and the matter shall be resolved by an order issued by the
fence viewers, subject to appeal, as provided in chapter 359A.

The neighboring landowner shall be a party to the controversy
as if the neighboring party were an adjacent landowner. The
neighboring landowner is not liable for erecting or
maintaining the fence, unless the neighboring landowner is an
adjacent landowner who is otherwise required to make a
contribution under chapter 359A.

3. If the fence is not erected or maintained as required
in section 359A.6, and upon the written request of the board
of township trustees, the board of supervisors of the county
where the fence is to be erected or maintained shall act in
the same manner as the board of township trustees under that
section, including by erecting or maintaining the fence,
ordering payment from a defaulted party, and certifying an
amount due to the county auditor. The amount due shall
include the total costs required to erect or maintain the
fence and a penalty equal to five percent of the total costs.
The amount shall be placed upon the tax books, and collected
with interest and penalties after due, in the same manner as
other unpaid property taxes.

Sec. 3. NEW SECTION. 359A.22A HABITUAL TRESPASS.

A landowner of land where livestock are kept or an owner of
adjoining land shall be liable to erect or maintain a fence if
the livestock trespasses upon the land of a neighboring
landowner or strays from the land where the livestock are kept

3 4 onto a public road, as provided in section 169C.6.

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JOHN P. KIBBIE
President of the Senate

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PATRICK J. MURPHY
Speaker of the House

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3 16 I hereby certify that this bill originated in the Senate and
3 17 is known as Senate File 200, Eighty-second General Assembly.

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MICHAEL E. MARSHALL
Secretary of the Senate

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CHESTER J. CULVER
Governor